

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

January 15, 2015

In re N. G. RICE, Minor.

No. 321741

Wayne Circuit Court

Family Division

LC No. 12-510636-NA

Before: TALBOT, C.J., and CAVANAGH and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). Because we conclude there were no errors warranting relief, we affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds listed in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). Once the trial court finds that a statutory ground has been proven, the court must order termination of parental rights if it also finds that termination is in the child's best interests. MCL 712A.19b(5). A court may consider evidence on the whole record in making its best-interest determination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). This Court reviews for clear error the trial court's determination that a ground for termination has been proved by clear and convincing evidence and that termination is in the child's best interests. *In re Rood*, 483 Mich 73, 90-91, 126 n 1; 763 NW2d 587 (2009); MCR 3.977(K).

At the time of the adjudication respondent admitted having substance abuse issues, mental health problems, and a history of domestic violence with her biological grandmother, who was also her adoptive mother. By the time of the permanent custody hearing respondent had not addressed any of these issues. Her substance abuse continued. She had five positive drug screens for oxymorphone from September 2013 to December 2013. She also missed seven drug screens and tested positive for marijuana and cocaine, which was also a violation of the terms of her probation. Respondent further tested positive for amphetamines long after her prescription for them ran out. Respondent stopped submitting court ordered weekly drug screens altogether in December 2013. The evidence clearly showed that respondent had not addressed her substance abuse.

There was also no evidence that respondent had achieved mental health stability. She was terminated from counseling in April 2014, for lack of contact with the counselor. Given her extensive criminal record between August 2013 and June 2014, which included multiple arrests for domestic assault and substance use, it was clear that she had not achieved emotional stability. Respondent's ongoing domestic violence issues demonstrated her instability. She was arrested for domestic assault against her adoptive mother in June 2013, and again in October 2013.

Respondent was also unable to provide proper care for the child because she did not have suitable housing. She had been living with her adoptive mother and the domestic violence between them jeopardized that placement. Moreover, after respondent's adoptive mother moved out of state, there was no evidence respondent obtained independent, suitable housing. She was also without employment. Given that respondent had not addressed the issues that brought the child into protective care and that she could not provide for her child's needs without housing or employment, the trial court did not clearly err when it determined that termination was warranted under MCL 712A.19b(3)(c)(i) and (g). *In re Rood*, 483 Mich at 90-91.

Respondent's increased criminal activity was a new condition that became a major issue after the trial court asserted jurisdiction. Although respondent was on probation for domestic violence involving her adoptive mother at the time of the adjudication, she was not frequently arrested or incarcerated when the child first came to the court's attention. By the time of the permanent custody hearing, respondent's continuous criminal activity, arrests, and repeated incarcerations had become significant by interfering with her availability and rendering her unable to parent or visit the child. Since respondent's propensity toward criminality was a new or other condition that would have caused the child to come within the court's jurisdiction, the trial court did not clearly err when it determined that termination was warranted under MCL 712A.19b(3)(c)(ii). *In re Rood*, 483 Mich at 90-91.

The young child, who had been in the court's custody since shortly after her birth, would be at risk of harm in respondent's care. Respondent never overcame her domestic violence issues and failed to maintain her mental health treatment, which included anger management and substance abuse therapy. Respondent's continuing substance use would also have put the child at risk of harm. She consistently tested positive for drugs, including amphetamines, codeine, oxymorphone, marijuana, and cocaine. By December 2013, respondent stopped providing drug screens and there was no evidence she completed substance abuse therapy. Thus, given these domestic violence and substance abuse concerns, the trial court did not clearly err when it determined that termination was proper under MCL 712A.19b(3)(j). *In re Rood*, 483 Mich at 90-91.

Respondent also challenges the trial court's best-interest determination. On the record as a whole, the trial court correctly found that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *Trejo*, 462 Mich at 356-357. Respondent argues that there was a strong bond between her and the child and that she had the capacity to be a good mother. Although the record showed that respondent was appropriate at visits, the overwhelming evidence showed that she could not provide a suitable home for her child. Any bond they shared was not sufficient to overcome the fact that respondent could not properly care for the child. Respondent did not have housing or employment, had a substance abuse problem, and had a history of unaddressed domestic violence. It is in the child's best interests to be raised

in a safe home environment by a caregiver who can provide for her material and emotional needs. Because respondent had not addressed her own issues, there was no evidence she could offer the child a proper home environment. The trial court did not clearly err in determining that termination of respondent's parental rights was in the child's best interests. *In re Rood*, 483 Mich at 90-91.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Michael J. Kelly